

**REMARKS/ARGUMENTS**

By this Amendment, Claims 27-28 have been amended with Claims 1 and 13 having been previously cancelled. Claims 25 and 26 were not entered. Thus, Claims 2-12, 14-24 and 27-28 are pending.

The Examiner has rejected Claims 4-8, 10-12, 16-23, 27 and 28 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,055,165 (Connelly) and in view of U.S. Patent Application No. 2003/0130893 (Farmer).

Connelly is directed to a system/method for periodically deriving an optimal batch broadcast schedule based on client demand feedback data from a distributed set of broadcast clients. In particular, the Examiner admits that Connelly does not disclose the claim elements of (1) the substitution of the source identification data with anonymous identification indicia that cannot be traced back to the source identification indicia, or (2) the encryption of the first decrypted message along with the anonymous identification indicia into a second message. To make up for these deficiencies, the Examiner cites Farmer as teaching anonymous identification and encryption steps where when “combined with Connelly the decrypted data of Connelly must be encrypted to form the encrypted data of Farmer.” Farmer discloses a system/method for protecting the identity of mobile wireless communications, preferably in vehicle telematic communications. The Examiner then asserts that it would have been obvious to one skilled in the art to combine the anonymous identification and encryption of Farmer in the Connolly patent. The motivation to combine these references, he submits, is to protect the privacy of the users and finds such support in paragraph 0009 of Farmer.

Applicants respectfully disagree for the following reasons.

There is no suggestion to combine the teachings and suggestions of Connelly and Farmer as advanced by the Examiner, except from using Applicants' invention as a template through hindsight reconstruction of Claims 27 and 28. In particular, Connelly specifies:

As discussed above, automatically-generated ratings may be derived from a combination of a user's previous viewing habits (i.e., in response to pieces of content that have are currently cached or have been previously cached), and previous ratings and classification provided by the user and through use of the relevance and believability factors. In some instances, data pertaining to a user's previous viewing habits may not be used due to privacy concerns. However, in order to overcome most privacy concerns, in one embodiment the client demand feedback data is sent back to the broadcast center through a mechanism that is guaranteed not to identify from which client and/or user that set of client demand feedback data was sent. For example, this "anonymous" client scheme could be implemented through an encryption process that uses a third party as a proxy, wherein the client demand feedback data is encrypted and must past through a decryption service operated by the third party that uses a private key that is not accessible to the broadcast operations center or any other party. *The third party then forwards the client demand feedback data to the broadcast operations center. In this manner, there is no way for the broadcast operations center to tell from which client system a given set of client demand feedback data is received.* (Emphasis added, Connelly, col. 23, lines 1-23).

In accordance with the foregoing, once the third party in Connelly decrypts the client demand feedback data, the third party forwards that data to the broadcast operations center. There is no need for any further identity protection since the third party has separated the source of the data from the data. Thus, there is no need for (1) substituting an anonymous identifier with the source identifier associated with the data and then (2) encrypting the data for transmission to the broadcast center. As a result, one skilled in the art would not combine the mechanisms of Farmer with Connelly other than to use the present invention as a template to do so.

Secondly, even if one skilled in the art were to combine Connelly with Farmer, the result would still not teach or suggest the present invention. In accordance with the cited portion of Connelly above, combining Connelly with Farmer would involve concealing the identity of the

end user from the broadcast operations center while having a third party act as the identity concealing agent. This is just the opposite of what is being done in the present invention, where the cable operator knows the identity (but not the content) of the end user while the identity of the end user remains unknown to the third party (e.g., viewer behaviorship entity). See page 11, lines 11-19 of the present invention. To that end, Applicants have further amended Claims 27 and 28 to more clearly specify this distinction. Thus, for all of the above reasons, Applicants respectfully submit that Claims 27 and 28 are patentable over the art of record and request that the §103(a) rejection be withdrawn.

Claim 4 is dependent upon new Claim 27 and is patentable for the same reasons discussed with regard to Claim 27. In addition, neither Connelly nor Farmer even mentions a secure location where a viewership analysis entity cannot gain access. The portion of Connelly cited by the Examiner, col. 23, lines 1-24, are set forth above and do not specify this claimed feature.

Claim 5 is dependent upon Claim 4 and is patentable for the same reasons. In addition, neither Connelly nor Farmer even mention a viewership analysis entity obtaining access to the secure location only with assistance from a cable operator entity or agent thereof.

Claim 19 is dependent upon Claim 28 and is patentable for the same reasons. In addition, neither Connelly nor Farmer even mentions a secure location where a viewership analysis entity cannot gain access.

Claim 20 is dependent upon Claim 19 and is patentable for the same reasons. In addition, neither Connelly nor Farmer even mention a viewership analysis entity obtaining access to the secure location only with the assistance from a cable operator entity or agent thereof.

Claim 6 is dependent upon Claim 4 and is patentable for the same reasons. Furthermore, although it may be well-known to use passwords to protect access to computers, the Examiner fails to identify where Official Notice evidences the denial of a computer password to a cable operator entity in the claimed scenario. "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." MPEP §2144.03.

Claim 21 is ultimately dependent upon on Claim 28 and is patentable for the same reasons. Furthermore, Claim 21 is similar to Claim 6 and is patentable for the same reasons specified in the discussion regarding that claim.

Claim 7 is dependent upon Claim 27 and is patentable for the same reasons. Furthermore, the Examiner fails to identify where Connelly or Farmer disclose the insertion of cable system network source data into a first decrypted message. Paragraph 0013 of Farmer, cited by the Examiner, discloses the setting of flags in vehicle messages, not cable system network source data.

Claim 8 is dependent upon Claim 7 and is patentable for the same reasons. Again, the Examiner fails to identify where Connelly or Farmer disclose where the source data includes cable system network segment data.

Claim 22 is ultimately dependent upon Claim 28 and is patentable for the same reasons. Furthermore, Claim 22 is similar to Claim 7 and is patentable for the same reasons specified in the discussion regarding that claim.

Claim 23 is dependent upon Claim 22 and is patentable for the same reasons. Furthermore, Claim 23 is similar to Claim 8 and is patentable for the same reasons specified in the discussion regarding that claim.

Claim 10 is dependent upon Claim 27 and is patentable for the same reasons.

Claim 11 is dependent upon Claim 27 and is patentable for the same reasons.

Claim 12 is dependent upon Claim 27 and is patentable for the same reasons.

Claim 16 is dependent upon Claim 28 and is patentable for the same reasons.

Claim 17 is dependent upon Claim 28 and is patentable for the same reasons.

Claim 18 is dependent upon Claim 28 and is patentable for the same reasons.

Claim 2 is dependent upon Claim 1 and is patentable for the same reasons.

Claim 3 is dependent upon Claim 2 and is patentable for the same reasons.

Claim 14 is dependent upon Claim 28 and is patentable for the same reasons.

Claim 15 is dependent upon Claim 14 and is patentable for the same reasons.

Claim 9 is dependent upon Claim 7 and is patentable for the same reasons.

Claim 24 is dependent upon Claim 22 and is patentable for the same reasons.

Thus, Applicants respectfully submit that, as amended, Claims 2-12, 14-24 and 27-28 are now in condition for allowance. Accordingly, prompt and favorable examination on the merits is respectfully requested.

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Should the Examiner believe that anything further is desirable in order to place the application in even better condition for initial examination and allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,  
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February 18, 2008

Please charge or credit our  
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